PART 24 Immediate Judgment

PART 24

Grounds for immediate judgment 24.1 - 24.2

24.1

The Court may give immediate judgment against a claimant or defendant on the whole of a claim, part of a claim or on a particular issue if:

(1) it considers that:

(a) that claimant has no real prospect of succeeding on the claim or issue; or

(b) that defendant has no real prospect of successfully defending the claim or issue; and

(2) there is no other compelling reason why the case or issue should be disposed of at a trial.

24.2

An application for immediate judgment under Rule 24.1 may be based on:

(1) a point of law (including a question of construction of a document);

(2) the evidence which can reasonably be expected to be available at trial or the lack of it; or

(3) a combination of these.

Types of proceedings in which immediate judgment is available 24.3

24.3

The Court may give immediate judgment against a claimant or defendant in any type of proceedings.

Procedure 24.4 - 24.6

24.4

A claimant may not apply for immediate judgment until the defendant against whom the application is made has filed:

(1) an acknowledgement of service ; or

(2) a defence;

unless

(a) the Court gives permission; or

(b) a Practice Direction provides otherwise.

24.5

If a claimant applies for immediate judgment before a defendant against whom the application is made has filed a defence, that defendant need not file a defence before the hearing.

24.6

Where an immediate judgment hearing is fixed, the respondent (or the parties where the hearing is fixed of the Court's own initiative) must be given at least 14 days' notice of:

(1) the date fixed for the hearing; and

(2) the issues which it is proposed that the Court will decide at the hearing.

Procedure for making an application 24.7 - 24.8

24.7

The application notice must include a statement that it is an application for immediate judgment made under Part 24.

24.8

The application notice or the evidence referred to in it or served with it must:

(1) identify concisely any point of law or provision in a document on which the applicant relies; and/or

(2) state that it is made because the applicant believes that on the evidence the respondent has no real prospect of succeeding on the claim or issue or (as the case may be) of successfully defending the claim or issue to which the application relates;

and in either case state that the applicant knows of no other compelling reason why the case or issue should be disposed of at a trial.

Evidence for the purposes of an immediate judgment hearing 24.9 - 24.10

24.9

The parties are to comply with Part 23 but it is not necessary for written evidence:

(1) to be filed if it has already been filed; or

(2) to be served on a party on whom it has already been served.

24.10

Where an immediate judgment hearing is fixed by the Court of its own initiative:

(1) any party who wishes to rely on written evidence at the hearing must:

(a) file the written evidence; and

(b) unless the Court orders otherwise, serve copies on every other party to the proceedings;

at least 7 days before the date of the hearing;

(2) any party who wishes to rely on written evidence at the hearing in reply to any other party's written evidence must:

(a) file the written evidence in reply; and

(b) unless the Court orders otherwise serve copies on every other party to the proceedings;

at least 3 days before the date of the hearing.

Orders the Court may make 24.11 - 24.13

24.11

The orders the Court may make on an application under Part 24 include:

(1) judgment on the claim or any part of the claim;

(2) the striking out or dismissal of the claim;

(3) the dismissal of the application; and

(4) a conditional order.

24.12

Where it appears to the Court possible that a claim or defence may succeed but improbable that it will do so, the Court may make a conditional order.

24.13

A conditional order is an order which requires a party:

(1) to pay a sum of money into Court ; or

(2) to take a specified step in relation to his claim or defence, as the case may be, and provides that that party's claim will be dismissed or his statement of case will be struck out if he does not comply.

Accounts and inquiries 24.14

24.14

If a remedy sought by a claimant in his claim form includes, or necessarily involves, taking an account or making an inquiry, an application can be made under Part 24 by any party to the proceedings for an order directing any necessary accounts or inquiries to be taken or made.

Specific performance 24.15 - 24.18

24.15

If a remedy sought by a claimant in his claim form includes a claim:

(1) for specific performance of an agreement (whether in writing or not) for the sale, purchase, exchange, mortgage or charge of any property, or for the grant or assignment of a lease or tenancy of any property, with or without an alternative claim for damages ; or

(2) for rescission of such an agreement; or

(3) for the forfeiture or return of any deposit made under such an agreement;

the claimant may apply under Part 24 for judgment .

24.16

The claimant may do so at any time after the claim form has been served, whether or not the defendant has acknowledged service of the claim form, whether or not the time for acknowledging

service has expired and whether or not any particulars of claim have been served.

24.17

The application notice by which an application under Rule 24.15 is made must have attached to it the text of the order sought by the claimant .

24.18

The application notice and a copy of every affidavit in support and of any exhibit referred to therein must be served on the defendant not less than 4 days before the hearing of the application.

Case management 24.19

24.19

Where the Court dismisses the application or makes an order that does not completely dispose of the claim it may:

(1) give directions as to the filing and service of a defence; and

(2) give further directions about the management of the case.

Costs 24.20 - 24.21

24.20

Attention is drawn to Part 38 and, in particular, to the Court's power to make an immediate assessment of costs.

24.21

Attention is also drawn to Rule 38.56 which provides that if an order makes no mention of costs, none are payable in respect of the proceedings to which it relates.

Setting aside order for immediate judgment 24.22 - 24.23

24.22

If an order for immediate judgment is made against a respondent who does not appear at the hearing of the application, the respondent may apply for the order to be set aside or varied (see also Rules 23.83 to 23.85).

24.23

On the hearing of an application under Rule 24.22, the Court may make such order as it thinks just.